

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. MAGGIE CROTTY

CO-CHAIR:
REP. ANGELO "SKIP" SAVIANO

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SEN. PAMELA ALTHOFF
SEN. DON HARMON
SEN. JOHN O. JONES
SEN. DALE A. RIGHTER
SEN. IRA SILVERSTEIN
REP. GREG HARRIS
REP. LOU LANG
REP. DONALD L. MOFFITT
REP. ROSEMARY MULLIGAN
REP. ANDRE THAPEDI

MINUTES

March 6, 2012

Meeting Called to Order

The Joint Committee on Administrative Rules met on March 6, 2012 at 9:30 a.m. in Room A-1 of the Stratton Office Building in Springfield, Illinois.

Co-Chair Saviano called the meeting to order and announced that the policy of the Committee is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. Other persons are encouraged to submit their comments in writing.

ATTENDANCE ROLL CALL

X Senator Pamela Althoff	X Representative Greg Harris
X Senator Maggie Crotty	X Representative Lou Lang
X Senator Don Harmon	X Representative Donald Moffitt
X Senator John O. Jones	X Representative Rosemary Mulligan
X Senator Dale Righter	X Representative Angelo "Skip" Saviano
Senator Ira Silverstein	X Representative Andre Thapedi

APPROVAL OF THE MINUTES OF THE FEBRUARY 7, 2012 MEETING

Representative Moffitt moved, seconded by Senator Jones, to approve the minutes of the February 7, 2012 meeting. The motion passed unanimously.

REVIEW OF AGENCY RULEMAKINGS

Department of Natural Resources – Hound Running Areas (17 Ill. Adm. Code 970; 35 Ill. Reg. 6742)

Senator Harmon moved, seconded by Representative Harris, that JCAR recommend that DNR be more timely in proposing rules implementing statute. This rulemaking was proposed more than 3 years after PA 95-196 authorized this program. The motion passed unanimously.

Secretary of State – Illinois Safety Responsibility Law (92 Ill. Adm. Code 1070; 35 Ill. Reg. 20125)

Representative Mulligan moved, seconded by Senator Althoff, that JCAR recommend that SOS be more timely in proposing rules that implement statutory directives. Section 7-316.1 of the Illinois Vehicle Code became effective 1/1/06, almost 6 years before this rulemaking was proposed. The motion passed unanimously.

CONSIDERATION OF OTHER RULEMAKINGS

Co-Chair Saviano asked if any members requested consideration of any other rulemaking.

Illinois Housing Development Authority – Homeownership Mortgage Loan Program (47 Ill. Adm. Code 300; 36 Ill. Reg. 1783)(Emergency)

Consideration of this emergency rule was postponed until the April meeting.

Department of Healthcare and Family Services – Medical Payment (89 Ill. Adm. Code 140; 35 Ill. Reg. 12202) and Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147; 35 Ill. Reg. 19015)

Senator Jones moved, seconded by Senator Righter, that JCAR and the Department agree to extend the Second Notice periods for these rulemakings an additional 45 days. The motion passed unanimously.

Department of Public Health – Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300; 35 Ill. Reg. 9927)

Representing the Department were Dr. Teresa Garate, Assistant Director; David Carvalho, Deputy Director; and Sean Dailey and Susan Meister, Rules Coordinators.

Senator Althoff noted that new language had been submitted as recently as Friday afternoon, which JCAR Staff, the Committee and the public had little or no time to review. She asked if there was any desire on the part of DPH to withdraw the rulemaking.

Dr. Garate said the Department apologized for submitting so many language changes on short notice. The Department was trying to be responsive to feedback from JCAR Staff and from various members of the public in order to relieve some of their concerns and issues. She added that, at this moment, the Department was not ready to withdraw the rulemaking.

Senator Althoff said she would like to make a motion based on procedure, as opposed to the substantive content of the rule.

Senator Althoff moved, seconded by Representative Lang, to object to and prohibit filing of the rulemaking because the rulemaking requires further clarification to communicate DPH's requirements to the regulated community and affected Illinois residents. Without this clarification, the rulemaking creates a serious threat to public welfare.

Senator Harmon stated that he wanted to clarify the intent of the motion. He understood that it was a procedural motion not meant as a judgment on the content of the rule and would not prevent substantive elements of the proposed rules, such as the nursing staff ratios, from being included in revised rules. It was intended simply to give DPH more time to address concerns about how the rules were drafted.

Senator Althoff said that was an extraordinarily fair characterization of her motion.

Representative Harris stated that members of the Committee have different opinions on the substance of the rule, particularly the registered nurse requirements. As a strong supporter of the RN time requirement, he was concerned that the most recent changes would diminish RN time and allow other persons with lesser skills to deliver nursing services. The Committee must be exactly sure of what it is voting on so that the decision is appropriate, based on the merits of the rule and does not lead to a rule being adopted with flawed definitions.

Co-Chair Crotty, as a co-sponsor of the authorizing legislation, said she was disappointed with the last-minute nature of the amendments and changes. Changes had been submitted as late as 5:30 the previous evening. Neither she nor anyone else on the Committee had a chance to see what those changes were, nor did any of the groups or individuals affected. She said not just the Committee but everyone who had a stake in the nursing home reform legislation and these rules should have an opportunity to see the changes.

Representative Thapedi said his concerns were primarily procedural. He asked DPH whether interested groups, such as the Civic Action Network, Jane Addams Senior Caucus, and Illinois Citizens for Better Health, were advised of the latest changes.

Dr. Garate said no; all changes had been submitted directly to JCAR because there was no time to do otherwise before the meeting. She said DPH had revised the rulemaking several times and had many discussions with interested parties over the past year regarding all but the latest proposed changes.

Representative Thapedi asked if DPH was still not inclined to withdraw the rulemaking.

Mr. Carvalho said that, if the Department withdrew, it would have to start the rulemaking process over again. After spending nearly a year on the current rulemaking, the Department wanted to get the protections afforded by the rules in place as soon as possible.

Co-Chair Saviano said that, if a Filing Prohibition were imposed, it could be lifted when JCAR was satisfied that the rules had been cleaned up.

Dr. Garate added that DPH's refusal to withdraw the rulemaking was not intended as any disrespect to JCAR.

Co-Chair Saviano said there was no animosity involved. JCAR realized the sense of urgency within DPH and had worked very hard to get the rulemaking through the process. JCAR also wants to make sure that Senator Steans and Senator Collins (chief sponsors of the underlying

legislation) know their concerns are being considered. The problem is not with the substance of the rulemaking, but the Committee wants to make sure that the process yields the best rule possible.

Senator Harmon asked Dr. Garate and Mr. Carvalho if JCAR could still work in partnership with DPH to create a better rule during a Filing Prohibition.

They said yes. Mr. Carvalho said DPH was close to resolving some issues and was confident in its most recent changes.

On the motion to object and prohibit filing, the vote was 9 voting yes, none voting no, and 2 (Representatives Harris and Thapedi) abstaining.

CERTIFICATION OF NO OBJECTION

Senator Harmon moved, seconded by Representative Thapedi, that the Committee inform the agencies to whose rulemakings the Committee did not vote an Objection or an Extension, or did not remove from the No Objection List, that the Committee considered their respective rulemakings at the monthly meeting and, based upon the Agreements for modification of the rulemakings made by the agencies, no Objections will be issued. The motion passed unanimously.

AGENCY RESPONSES

Department of Public Health – AIDS Drug Assistance Program (77 Ill. Adm. Code 692; 35 Ill. Reg. 15976)

Due to the appropriateness of the agency's response, no further action.

APRIL MEETING DATE

Co-Chair Saviano announced that the next monthly meeting is scheduled for Tuesday, April 17, 2012, at 9:30 a.m., Room A-1, Stratton Office Building, Springfield IL.

ADJOURNMENT

Representative Thapedi moved, seconded by Representative Lang, that the meeting stand adjourned. The motion passed unanimously.

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